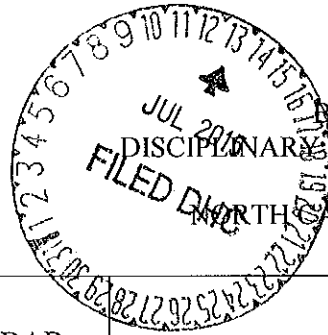


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
15 DHC 34

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

EDWARD D. SELTZER, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar, is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Edward D. Seltzer, was admitted to the North Carolina State Bar in August 1980 and is an Attorney at Law subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

Upon information and belief:

3. During the relevant period referred to herein, Defendant was engaged in the practice of law in Charlotte, Mecklenburg County, North Carolina.

FIRST CLAIM FOR RELIEF

4. Paragraphs 1 through 3 are re-alleged and incorporated as if set forth herein.

5. On 19 April 2006, Defendant was qualified as the personal representative of the Estate of Charles Ryan Untz, Mecklenburg County file 06-E-1110.

6. After the Clerk's office sent Defendant a notice to file the 90-day inventory, Defendant filed it in August 2006.

7. On 20 April 2007, the Clerk sent Defendant a notice to file the final account within thirty (30) days.

8. Defendant failed to file the final account within thirty (30) days.

9. On 30 May 2007, the Clerk sent Defendant an order to file the final account within twenty (20) days of service of the order upon him.

10. Defendant was served with the order on 7 June 2007 and did not file the final account within the required time.

11. On 16 September 2009, the Clerk sent Defendant an order to appear and show cause why he had failed to file the final account. Defendant received the show cause order on 21 September 2009.

12. At a show cause hearing on 28 September 2009, Defendant's attorney appeared on his behalf and assured the court Defendant would bring the accountings current within a few days.

13. Defendant filed overdue annual accountings, but not the final account, on 5 November 2009.

14. On 22 April 2010, the clerk sent Defendant a notice to file the final account. The notice was returned as undeliverable.

15. On 30 April 2010, the clerk sent Defendant another notice to file the final account.

16. On 25 May 2010, the clerk sent Defendant an order to file the final account. The order was returned as undeliverable.

17. The clerk issued another show cause order to Defendant on 25 July 2014, with hearing set for 18 September 2014.

18. Defendant filed the final account on 15 September 2014.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of his actions as follows:

(a) By failing to file timely the accountings in the Untz estate, Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d) and failed to timely render to judicial officials the requisite inventory and accountings of fiduciary funds and other entrusted property in violation of Rule 1.15-3(f); and

(b) By failing to comply timely with the clerk's notices and orders to file the accountings, Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

SECOND CLAIM FOR RELIEF

19. Paragraphs 1 through 18 are re-alleged and incorporated as if set forth herein.

20. On 10 August 2012, Defendant was qualified as the personal representative of the Estate of Donald Miller Seltzer, Mecklenburg County file 12-E-2367. Donald Seltzer was Defendant's father.

21. On 20 November 2012, the clerk sent Defendant a notice to file an inventory within thirty (30) days.

22. Defendant failed to file the inventory within thirty (30) days.

23. On 15 February 2013, the clerk sent Defendant an order to file an inventory within twenty (20) days of service of the order upon him.

24. Defendant was served with the order on 20 February 2013 and did not file the inventory within the required time.

25. On 25 March 2013, the clerk sent Defendant an order to show cause why he had failed to file an inventory. Defendant received the show cause order on 16 April 2013.

26. Defendant failed to appear at the show cause hearing on 2 May 2013.

27. A second show cause hearing was scheduled for 18 September 2014.

28. Defendant filed an inventory on 18 September 2014.

29. At the 18 September show cause hearing, Defendant was given until 1 November 2014 to file an annual account and until 15 January 2015 to file the final account.

30. Defendant failed to file an annual account.

31. Defendant filed the final account on 13 March 2015.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of his actions as follows:

(a) By failing to file timely the inventory and accountings in the Seltzer estate, Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d) and failed to timely render to judicial officials the requisite inventory and accountings of fiduciary funds and other entrusted property in violation of Rule 1.15-3(f); and

(b) By failing to comply timely with the clerk's notices and orders to file the inventory and accountings, Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

THIRD CLAIM FOR RELIEF

32. Paragraphs 1 through 31 are re-alleged and incorporated as if set forth herein.

33. In or around June 2012, Defendant began representing R.W. in a post-conviction matter.

34. At the outset of the representation, Defendant acquired the transcript from R.W.'s trial and met with the attorney who defended R.W. at trial.

35. Defendant ascertained that the appropriate course of action was to hire a forensic expert.

36. Defendant took no effective additional steps on behalf of R.W.

37. In June 2014, R.W. wrote Defendant a letter asking whether Defendant was still representing him.

38. In July 2014, R.W. wrote Defendant another letter, in which he indicated that he still wanted Defendant to represent him and asking Defendant to respond as soon as possible.

39. Defendant did not respond to either of R.W.'s letters.

40. On or about 22 August 2014, R.W. filed with the State Bar a Petition for Resolution of Disputed Fee concerning Defendant's representation of him.

41. On 29 August 2014, the State Bar served Defendant with notice of the fee dispute by certified mail.

42. Defendant was to respond to the fee dispute within fifteen days of his receipt of notice of the fee dispute.

43. Defendant failed to respond timely to the fee dispute.

44. On 18 September 2014, State Bar fee dispute facilitator Luella Crane telephoned Defendant and left him a voicemail asking him to call her regarding R.W.'s fee dispute.

45. On 19 September 2014, Ms. Crane left a second voicemail for Defendant.

46. Defendant responded to neither of Ms. Crane's messages.

47. On 25 September 2014, Defendant met with R.W.

48. The following day, Defendant sent R.W. a letter memorializing what they had discussed at the meeting, including that R.W. would pay Defendant an additional \$6,000 by December 2014.

49. Upon information and belief, Defendant had not informed R.W. prior to September 2014 that he required additional funds to continue the representation.

50. On 1 October 2014, the State Bar received Defendant's response to the fee dispute.

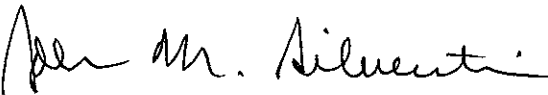
THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of his actions as follows:

- (a) By failing to respond to R.W.'s letters of June and July 2014, Defendant failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);
- (b) By failing to inform R.W. promptly that additional funds would be required to continue the representation, Defendant failed to reasonably consult with the client about the means by which the client's objectives are to be accomplished in violation of Rule 1.4(a)(2), failed to keep the client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), and failed to act with reasonable diligence in representing a client in violation of Rule 1.3; and
- (c) By failing to respond timely to the fee dispute, Defendant failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f)(2).

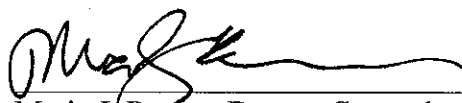
WHEREFORE, Plaintiff prays that

- 1. Disciplinary action be taken against Defendant in accordance with N.C.G.S. § 84-28 (c) and 27 N.C.A.C. 1B § .0114 as the evidence on hearing may warrant;
- 2. Defendant be taxed with the administrative fees and with actual costs permitted by law in connection with the proceeding; and
- 3. For such other and further relief as the Hearing Panel deems appropriate.

This the 13th day of July, 2015.



John M. Silverstein, Chair
Grievance Committee



Maria J. Brown, Deputy Counsel
The North Carolina State Bar
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